

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

NORRIS GLENN SALTER,

Defendant-Appellant.

UNPUBLISHED

March 27, 2007

No. 267477

Oakland Circuit Court

LC No. 05-202134-FH

Before: Zahra, P.J. and Bandstra and Owens, JJ.

PER CURIAM.

Defendant appeals as of right from his conviction of possession of 50 grams or more but less than 450 grams of cocaine, MCL 333.7403(2)(a)(iii), entered after a jury trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

I. Facts

The police executed a search warrant at the home of Dortha Bray. Bray was the target of the investigation; however, several persons, including Bray and defendant, were present in the home when the police arrived. In the master bedroom, the police found \$200 on top of a dresser, and a handgun, bullets for the gun, and a digital scale inside the dresser. Cocaine was found in the master bedroom bathroom.

Defendant waived the rights afforded to him pursuant to *Miranda v Arizona*, 384 US 436; 86 S Ct 1602; 16 L Ed 2d 694 (1966), and made a statement. An officer testified that defendant stated that he had been dating Bray for many years, that he stayed at her home frequently, and that he was unemployed and lived on the money Bray made selling drugs. Defendant admitted that he knew that the cocaine and the gun were in the home, that he traveled with Bray to Detroit to purchase cocaine, and that he acted as a lookout when she sold cocaine.

Defendant testified that he had been disabled since childhood, and as a result was unemployed. He acknowledged that he frequently spent time at Bray's home, and that he kept some clothes at the home. Defendant admitted that he had seen cocaine and a weapon in Bray's home, but denied that they belonged to him or that he participated in cocaine sales with Bray.

The jury convicted defendant of possession of 50 grams or more but less than 449 grams of cocaine. The trial court sentenced defendant as a third habitual offender, MCL 769.11, to eight to 40 years in prison, with credit for 105 days served in jail. This appeal followed.

II. Legal Analysis

Defendant challenges the sufficiency of the evidence presented at trial. In reviewing a sufficiency of the evidence question, we view the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could conclude that the elements of the offense were proven beyond a reasonable doubt. We do not interfere with the jury's role of determining the weight of the evidence or the credibility of witnesses. *People v Bulls*, 262 Mich App 618, 623; 687 NW2d 159 (2004); *People v Milstead*, 250 Mich App 391, 404; 648 NW2d 648 (2002). A trier of fact may make reasonable inferences from direct or circumstantial evidence in the record. *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

Possession of a controlled substance exists when a defendant has dominion or control over the substance with knowledge of its possession or character. *People v Nunez*, 242 Mich App 610, 615; 619 NW2d 550 (2000). Possession of a controlled substance may be actual or constructive, and may be exclusive or joint. Constructive possession exists when the totality of the circumstances indicates a sufficient nexus between the defendant and the controlled substance. *People v Meshell*, 265 Mich App 616, 621-622; 696 NW2d 754 (2005). The critical question is whether the defendant had dominion or control over the substance. Mere presence is insufficient. Some additional link between the defendant and the controlled substance must be shown. Circumstantial evidence and reasonable inferences drawn from the evidence are sufficient to prove possession. *People v Fetterley*, 229 Mich App 511, 515; 583 NW2d 199 (1998).

Contrary to defendant's assertion, the prosecution was not required to show that he had exclusive control or dominion over the cocaine in order to establish the elements of the offense. *Meshell, supra*. The evidence showed that cocaine was found in the master bedroom bathroom, that money, scales, and a handgun were found in the master bedroom, and that defendant shared the master bedroom with Bray when he stayed at the home. Male clothing was found in the master bedroom. An officer stated that defendant said that he knew that Bray sold cocaine, and that he accompanied Bray when she sold cocaine. Defendant testified and denied that he participated in cocaine sales; however, the jury was entitled to reject that testimony. *Milstead, supra*. The totality of the evidence, as accepted by the jury, established that cocaine was present in an area of the home that was under defendant's shared control, that defendant knew cocaine was present in that area, and that defendant assisted Bray by acting as a lookout when she sold cocaine. The totality of the circumstances established by direct and circumstantial evidence established a sufficient nexus between defendant and the cocaine. *Meshell, supra*; *Fetterley, supra*. The evidence was sufficient to support defendant's conviction. *Bulls, supra*.

Affirmed.

/s/ Brian K. Zahra
/s/ Richard A. Bandstra
/s/ Donald S. Owens